

SK  
F.#2015R00439

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

---

IN RE APPLICATION OF THE  
UNITED STATES OF AMERICA FOR  
AN ORDER PURSUANT TO  
18 U.S.C. § 2703(d)

---

)  
)  
) **Application for Non-Content**  
) **Account Information per § 2703(d)**  
)

) NO. 17-MC-1993  
)

APPLICATION OF THE UNITED STATES  
FOR AN ORDER PURSUANT TO 18 U.S.C. § 2703(d)

The United States of America, moving by and through its undersigned counsel, respectfully submits this *ex parte* application for an Order pursuant to 18 U.S.C. § 2703(d). The proposed Order would require Facebook, an Internet service provider located in Menlo Park, California, to disclose certain records and other information pertaining to the Facebook account with user ID **100000340744063**, as described in Part I of Attachment A to the proposed Order. The records and other information to be disclosed are described in Part II of Attachment A to the proposed Order. In support of this application, the United States asserts:

LEGAL BACKGROUND

1. Facebook is a provider of an electronic communications service, as defined in 18 U.S.C. § 2510(15), and/or a remote computing service, as defined in 18 U.S.C. § 2711(2). Accordingly, the United States may use a court order issued under § 2703(d) to require Facebook to disclose the items described in Part II of Attachment A. *See* 18 U.S.C. § 2703(c)(2) (Part II.A of Attachment A); 18 U.S.C. § 2703(c)(1) (Part II.B of Attachment A).

2. This Court has jurisdiction to issue the proposed Order because it is “a court of competent jurisdiction,” as defined in 18 U.S.C. § 2711. *See* 18 U.S.C. § 2703(d). Specifically,

the Court is a district court of the United States that has jurisdiction over the offense being investigated. *See* 18 U.S.C. § 2711(3)(A)(i).

3. A court order under § 2703(d) “shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation.” 18 U.S.C. § 2703(d). Accordingly, the next section of this application sets forth specific and articulable facts showing that there are reasonable grounds to believe that the records and other information described in Part II of Attachment A are relevant and material to an ongoing criminal investigation.

#### THE RELEVANT FACTS

4. This application seeks information from Facebook indicating whether FABIO GASPERINI, currently under indictment in the Eastern District of New York and scheduled to go to trial on July 24, 2017, and his co-conspirators, currently at large, deleted his Facebook account shortly after his arrest.

5. The United States is investigating computer fraud (18 U.S.C. § 1030(a)(2)-(4)), wire fraud (18 U.S.C. § 1343), wire fraud conspiracy (18 U.S.C. § 1349), and money laundering conspiracy (18 U.S.C. § 1956).

6. On August 14, 2015, the Honorable Lois Bloom signed a criminal complaint and issued an arrest warrant for FABIO GASPERINI for computer fraud, in violation of 18 U.S.C. § 1030(a)(4). *See United States v. Fabio Gasperini*, No. 16-CR-441, ECF No. 1 (E.D.N.Y. Aug. 14, 2015). On June 18, 2016, law enforcement authorities in the Netherlands arrested GASPERINI in response to a provisional arrest request from the United States. Shortly after his arrest, GASPERINI was provided with a copy of the criminal complaint, which cited information

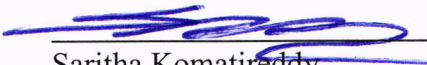
from GASPERINI's Facebook account as a source of evidence against him. Records obtained from Facebook revealed that a Facebook Account with user ID **100000340744063**, registered in the name of "Fabio Gasperini," was closed approximately three days after GASPERINI's arrest, on June 21, 2016. Records obtained from an Italian telecom company confirmed that the verified cellular telephone number associated with the foregoing Facebook Account was subscribed to by GASPERINI.

7. Personnel at Facebook have informed the government that they generally maintain information regarding whether an account that is closed has been deleted by the user, deactivated by the user, or disabled by Facebook.

REQUEST FOR ORDER

8. The facts set forth in the previous section show that there are reasonable grounds to believe that the records and other information described in Part II of Attachment A to the proposed Order are relevant and material to an ongoing criminal investigation. Accordingly, the United States requests that Facebook be directed to produce all items described in Part II of Attachment A to the proposed Order.

Dated: Brooklyn, New York  
July 14, 2017

  
Saritha Komatireddy  
Assistant United States Attorney  
(718) 254-6054

SK  
F.#2015R00439

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

---

IN RE APPLICATION OF THE  
UNITED STATES OF AMERICA FOR  
AN ORDER PURSUANT TO  
18 U.S.C. § 2703(d)

---

)  
)  
) NO. 17-MC-1993  
)  
)

ORDER

The United States has submitted an application pursuant to 18 U.S.C. § 2703(d), requesting that the Court issue an Order requiring Facebook, an electronic communications service provider and/or a remote computing service located in Menlo Park, to disclose the records and other information described in Attachment A to this Order.

The Court finds that the United States has offered specific and articulable facts showing that there are reasonable grounds to believe that the records or other information sought are relevant and material to an ongoing criminal investigation.

IT IS THEREFORE ORDERED, pursuant to 18 U.S.C. § 2703(d), that Facebook shall, within two days of the date of this Order, disclose to the United States the records and other information described in Attachment A to this Order.

July 14, 2017

s/Robert M. Levy  
Honorable Robert M. Levy  
United States Magistrate Judge

---

Date

## **ATTACHMENT A**

### **I. The Account(s)**

The Order applies to certain records and information associated with the following user ID: **100000340744063**.

### **II. Records and Other Information to Be Disclosed**

- The reason for the closure of the account (e.g., whether it was deleted by the user, deactivated by the user, or disabled by Facebook)
- The IP address associated with the closure of the account